

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

PRISCILLA STERLING, et al.,)
Plaintiffs,)
v.) Case No. 3:22-cv-00531-KHJ-MTP
THE CITY OF JACKSON, MISSISSIPPI,)
et al.,)
Defendants.)

**DEFENDANT SIEMENS INDUSTRY, INC.’S
MEMORANDUM IN SUPPORT OF
UNOPPOSED MOTION TO ENTER ORDER OF DISMISSAL**

Defendant Siemens Industry, Inc. (“Siemens”) moves the Court to enter an order (i) dismissing all claims asserted against Siemens in this action and (ii) directing entry of final judgment as to those claims.

Earlier, Siemens moved to dismiss Plaintiffs’ claims for lack of standing. [26–27.] The Court denied that motion without prejudice, granted Plaintiffs leave to file an Amended Complaint within thirty days, and stated that if “no Amended Complaint is filed, Siemens will be dismissed.” [49.] Plaintiffs did not file an amended complaint against Siemens. Instead, Plaintiffs purposefully omitted Siemens from their repleading. [57, n.1.] Under the Court’s prior order, Siemens should be dismissed.

That dismissal should be a partial final judgment. “When an action presents more than one claim for relief . . . or when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties . . . if the court expressly

determines that there is no just reason for delay.” Fed. R. Civ. P. 54(b). The Court’s dismissal of Siemens meets this standard:

This action presents more than one claim for relief and involves multiple parties. There are seven remaining defendants and multiple claims asserted against them, just as there were multiple claims previously asserted against Siemens.

There is no just reason to delay entry of a final judgment as to Siemens. In deciding whether to enter a partial final judgment, the Court considers “whether the claims under review were separable from others remaining to be adjudicated and whether the nature of the claims to be determined was such that no appellate court would have to decide the same issues more than once even if there were subsequent appeals.” *H & W Indus., Inc. v. Formosa Plastics Corp., USA*, 860 F.2d 172, 175 (5th Cir. 1988) (citing *Curtiss-Wright Corp. v. General Electric Co.*, 446 U.S. 1, 8 (1980)). The claims against Siemens were separable from the remaining claims against the other defendants. Plaintiffs theorized that Siemens’ water meter contract with the City of Jackson deprived the City of revenue. [1 ¶¶ 264–275.] Plaintiffs did not assert any similar theory against the other defendants. Hence, the term “water meter” is absent from the body of Plaintiffs’ amended complaint against the remaining defendants. [57.] And Plaintiffs’ lack of standing to sue Siemens turned on Plaintiffs’ failure to adequately plead traceability/causation as to Siemens. [49.] No other defendant shares that issue, and therefore the issue is unlikely to arise in any future appeal involving any other defendant.

* * *

For these reasons, the Court should enter an order (i) dismissing all claims asserted against Siemens in this action and (ii) directing entry of final judgment as to those claims. Pursuant to Local Rule 52(a), Siemens will submit a proposed order, styled “Final Judgment,” to

the chambers of Hon. Judge Kristi Johnson. Counsel for Siemens has conferred with Counsel for Plaintiffs, who does not oppose the relief sought.

Respectfully submitted this 30th day of June, 2023.

/s/ Simon Bailey

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Attorneys for Defendants Siemens Industry, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2023, a true and correct copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system, which will send electronic notification of such filing to all counsel of record.

/s/ Simon Bailey

OF COUNSEL